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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,764	02/20/2004	Mikio Kinoshita		7387

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Mikio Kinoshita  
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JAPAN

EXAMINER
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CLARKE, SARA SACHIE

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/783,764	Applicant(s) KINOSHITA, MIKIO	
	Examiner Sara Clarke	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/415,764.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on November 10, 2000. It is noted, however, that applicant has not filed a certified copy of the Japanese application in this application or the parent application as required by 35 U.S.C. 119(b).

### ***Claim Objections***

Claim 8 is objected to because of the following informalities: On line 15, "reflecting" should be "concentrating" for consistency. See line 2 of the same claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Arbogast (US 4056313).

Arbogast discloses the invention as claimed including reflector rotating members 13, a moving member 31, and a guide member 23.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arbogast (US 4056313) in view of Matlock et al. (US 4109638).

Arbogast discloses the method steps substantially as claimed with the exception of rotating the solar radiation reflecting apparatus around a straight line perpendicular to the reflector arrangement surface so that the incident solar radiation is caused to be incident along a prescribed direction in the reflector arrangement surface.

Matlock et al. discloses the use of a solar collector and teaches the use of rotating the entire mechanism via means shown in Figs. 9-11 to cause the reflectors to be trained toward the location of the sun to receive the maximum amount of solar radiation. See the abstract.

Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to rotate the mechanism of Arbogast as taught by Matlock et al. to cause the reflectors to be trained toward the location of the sun to receive the maximum amount of solar radiation.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/415,764. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the current application are broader in scope than those of the parent application. With respect to claims 1, 7, and 8 of the current application, the "reflector vertical bars" of claims 1 and 7 of the parent application have been broadened to "reflector rotating members" in the current application. In claims 1 and 8 of the parent application, the "reflector vertical bars" are described as rotating later in the same claim. Claims 7 and 8 of the current application are considered to be broader than claims 1 and 7 of the parent application since several limitations of the parent application are not recited in claim 7 and 8 of the current application.


This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Contact Information***

Any inquiry concerning this or earlier communications from the examiner should be directed to Sara Clarke whose phone number is 703-308-1388. The examiner normally can be reached Mon-Fri, 8:30-1:00.

If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached at 703-308-1935. The fax number for the organization where this application is assigned is 703-872-9306.

Status information for an application is available from the Patent Application Information Retrieval (PAIR) system. Status information for published applications is available from Private or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR, see <http://pair-direct.uspto.gov>. For questions on access to Private PAIR, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sara Clarke   
Primary Examiner  
Art Unit 3749

November 15, 2004